win v. *Parsons*, 186 N. W. 665 (Iowa); *Graham* v. *Page*, 300 Ill. 40, 132 N. E. 817. *Contra*, *Arkin* v. *Page*, 287 Ill. 420, 123 N. E. 30; *Doran* v. *Thompson*, 76 N. J. L. 754, 71 Atl. 296; *Van Blaricom* v. *Dodgson*, 220 N. Y. 111, 115 N. E. 443. Neither policy, nor analogy clearly supports this "family purpose doctrine." Where one member of the family, or the chauffeur, drives another member of the family, *respondeat superior* clearly applies. *Moone* v. *Mathews*, 227 Pa. St. 488, 76 Atl. 219; *McNeal* v. *McKain*, 33 Okl. 449, 126 Pac. 742; *Dennison* v. *McNorton*, 228 Fed. 401 (6th Circ.). But where the car is loaned to the chauffeur, it does not apply. *Mogle* v. *Scott Co.*, 144 Minn. 173, 174 N. W. 832. Nor should it be warped to apply to the indistinguishable situation of a loan to a relative. See 28 HARV. L. REV. 91. The whole question resolves itself into a weighing of conflicting considerations of policy. See Edward W. Hope, "The Doctrine of the Family Automobile," 8 AM. BAR ASS'N JOUR. 359, 365; 20 COL. L. REV. 213. In the situation here presented this should be left to the legislature. See 28 HARV. L. REV. 91. It can hardly be doubted that a statute making the owner of an automobile liable for the injuries caused by it through negligent management by persons licensed by the owner to drive it would be constitutional. See 34 HARV. L. REV. 434.

APPEAL AND ERROR — REVERSING JUDGMENT FOR ERROR TO WHICH NO EXCEPTION HAD BEEN TAKEN. — In a trial for manslaughter the evidence was close. The prosecuting attorney introduced irrelevant evidence and improper argument and secured erroneous instructions, all grossly prejudicial to the defendant. Counsel for the defendant did not object or except through ignorance of trial procedure. *Held*, that the errors will be considered on writ of error. *People* v. *Gardiner*, 135 N. E. 422 (Ill.).

Unless a party reserves a question for review by exception in the trial court, he cannot as of right raise the question on review. In most jurisdictions the appellate court cannot in any event notice questions not properly raised below. But the federal appellate courts may notice a plain error, though it was not assigned. *Oppenheim* v. *United States*, 241 Fed. 625 (2nd Circ.). See RULES OF U. S. CIRC. CT. OF APP., no. 11, 150 Fed. xxv, xxvii. A few jurisdictions have a similar rule in criminal cases. *People* v. *Weiss*, 129 App. Div. 671, 114 N. Y. Supp. 236. Others restrict the application of the rule to capital cases. *People* v. *Brott*, 163 Mich. 150, 128 N. W. 236. Distinctions are drawn between felony and misdemeanor cases. There are also numerous variations of this practice in civil cases. *Cf. Howard* v. *Payne*, 112 S. E. 437 (S. C.). The divergence of such procedure from orthodox common law principles is evident. The objection may be raised that counsel, to have an "anchor to windward" in case of an adverse verdict, might exploit the rule by injecting error into the record through failure to object to erroneous rulings. But since the appellant cannot raise an unreserved point as of right, and since the court will notice such points only in extreme cases, the step taken by Illinois seems properly liberal.

BANKRUPTCY — PREFERENCES — RIGHT TO RESCIND TRANSACTION FOR FRAUD. — The defendants through the fraudulent misrepresentations of one Ponzi gave Ponzi money in return for his notes. Discovering the fraud within four months prior to bankruptcy, they rescinded, and were paid back the amount of their original contributions. The trustee in bankruptcy of Ponzi now sues to recover these sums on the ground that their payment was a preference. *Held*, that it was no preference; the money returned could be traced as being part of a mass which included their original contributions, and that even if it could not be traced, *cestuis*

of a trust *ex maleficio* do not fall within Section 60 of the Bankruptcy Act. *Lowell* v. *Brown*, 280 Fed. 193 (D. Mass.).

Where one has been induced by fraud to sell the bankrupt goods, the defrauded party may recover the goods or the proceeds if he can follow them even though bankruptcy is about to take place. *Donaldson* v. *Farwell*, 93 U. S. 631; *Gillespie* v. *J. C. Piles & Co.*, 178 Fed. 886 (8th Circ.). Indeed, where the *res* can be traced the defrauded party need not accept his own goods or their proceeds, but can accept other goods in lieu of them. *Illinois Parlor Frame Co.* v. *Goldman*, 257 Fed. 300 (7th Circ.). In the principal case the court shows there is no preference because the trust *res* is in existence. In such a case it seems clear Section 60 of the Bankruptcy Act does not apply if the *cestuis* insist on their rights. In the latter part of its opinion the court, however, goes further and says that even if the funds cannot be traced there is no preference, for Section 60 of the Bankruptcy Act cannot apply to persons seeking to share in the general assets of the bankrupt if such persons were once *cestuis* of a trust *ex maleficio*. The statements of the court are not clear on this point; but if such is the holding it seems wrong. Where the trust *res* is exhausted, the *cestuis* are classed with general creditors and share with them. *In re Mulligan*, 116 Fed. 715 (D. Mass.). Payment by the bankrupt to them within the four months period might very well be a preference if the other essentials are also present. *Clark* v. *Rogers*, 228 U. S. 534; *In re Dorr*, 196 Fed. 292, 298 (9th Circ.).

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — CONDITIONAL SALE VALID WHERE POSSESSION IS IN THIRD PARTY. — The claimant sold cars to the bankrupt under a contract of conditional sale which provided that the bankrupt should lease the cars to a third party and assign the lease to the vendor. This was done. Each car bore plates giving the vendor's name as owner. On the purchaser's becoming bankrupt, the vendor seized the cars which were in possession of the lessee outside the jurisdiction and the trustee in bankruptcy obtained an order restraining sale. *Held*, that the order be vacated. *Black* v. *Financing Corporation*, 279 Fed. 732 (3rd Circ.).

A trustee in bankruptcy takes the status of a judgment creditor as of the time when the petition in bankruptcy is filed, and the rights of creditors are to be determined according to local law. See U. S. COMP. STAT. § 9631. *Bailey* v. *Baker etc. Co.*, 239 U. S. 268; *Bryant* v. *Swofford etc. Co.*, 214 U. S. 279. The great weight of authority supports the title of a vendor in a conditional sale as against the buyer's creditors. *Flint Wagon Works* v. *Maloney*, 26 Del. 137, 81 Atl. 502. *Cf. Harkness* v. *Russell*, 118 U. S. 663. See WILLISTON, SALES, § 326. However the settled law of Pennsylvania is opposed to that doctrine. *Ott* v. *Sweatman*, 166 Pa. St. 217, 31 Atl. 102; *Printing Press Co.* v. *Publishing Co.*, 213 Pa. St. 207, 62 Atl. 841. The facts of this case present a situation on which the courts of Pennsylvania have not yet passed and which may well be an exception to the rigid rule that conditional sales are void as against judgment creditors. Where possession is in a third party who holds as lessee, where the vendor holds an assignment of the lease, and where the actual ownership is plainly evidenced on the *res*, all causes of deception are removed and with them the only possible justification for the Pennsylvania doctrine. The decision therefore seems correct on principle and reconcilable with Pennsylvania authority.

CONFLICT OF LAWS — ADOPTION — DESCENT OF LAND TO CHILD LEGITIMATED BY ADOPTION. — X, the illegitimate son of F and M, both